The Planning Inspectorate

Appeal Decision

Site visit made on 13 June 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2024

Appeal Ref: APP/Y3805/W/24/3337155
Cheyne Court, Rectory Road, Shoreham-by-Sea, West Sussex BN43 6EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Ideal Property Sussex Limited against the decision of Adur District Council.
- The application Ref AWDM/1561/23, dated 09 November 2023, was refused by notice dated 03 January 2024.
- The development proposed is additional storey to create 4 nos. 2-bed residential dwellings, new pitched roofs over front porches, new boundary treatment, improvements to building elevations, and new bin and bicycle stores.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the decision notice includes reference to new pitched roofs over front porches, which was not included in the application form. These porches are included in the submitted plans so I have included this reference in the banner heading above.

Main Issues

3. The main issues are:

   - the effect of the proposed development on the character and appearance of the surrounding area; and,

   - the effect of the proposed development on the living conditions of surrounding neighbouring occupiers, with particular regard to daylight/sunlight, privacy and outlook.

Reasons

Character and appearance

4. The appeal site (Cheyne Court) comprises a three-storey flat-roofed building containing 12 flats. The building faces Rectory Road and is surrounded by communal open space. It is within a residential area surrounded mainly by two-storey terraced dwellings, although neighbours immediately opposite comprise semi-detached dormer bungalows within fairly wide frontages. The nearest three-storey block of flats facing Rectory Road (Montague Court) is at some distance to the east adjacent Montague Close, but intervisibility with Cheyne Court is possible. These dwellings and flat blocks share common design

features and open/landscaped frontages along the highway, although there is some variation in the building heights and setback distances.

5. The appeal scheme proposes an additional floor to provide four more flats, and forms part of an overall scheme to improve the condition of the building and its existing standard of accommodation. The design would replicate the existing flat roof and would fully integrate with all the existing walls below. The proposed external fenestration would also reflect the existing building.

6. Cheyne Court already sits noticeably in front of No. 31 Rectory Road at closer proximity to the highway, but is more in line with No. 27 on the other side. The additional floor proposed would however sit prominently in the streetscene, at a clear storey higher than these neighbouring ridgelines and at a close proximity to them. Although there is some variation in building heights along the street, the extended building would be significantly taller than the buildings in its immediate vicinity. The appeal proposal would also appear even more dominant in relation to the dormer bungalows on the opposite site of the road. The resultant height differences would be visually jarring, accentuated by the proximity to the road, and would also be noticeably greater than the existing relationship between the nearby three storey Montague Court and the dwellings surrounding it.

7. The resultant taller building would therefore have an unacceptably overdominant and incongruous relationship with its immediate context. Its overall height and proximity to Rectory Road would also mean that its discordant relationship with the adjacent lower dwellings would be clearly appreciable along the approaches either side of Cheyne Court. The works to improve the existing building façade, also forming part of the appeal proposal, would not mitigate this harm arising from the proposed extension.

8. The appellant refers to the Shoreham Academy buildings as part of its justification for the proposal, and I observed one of its three storey buildings beyond the nearby cul-de-sac of Larke Close. However, these educational buildings are at significant distance away from the main residential roads surrounding them, which avoids them becoming a dominant feature within the public realm.

9. The appellant has also cited a number of existing examples of four storey blocks of flats along the Wilmot Road/Stoney Lane area. I observed that these are within a different context, generally comprising a concentration of three/four storey buildings, albeit amongst a number of lower dwellings. However, this appears to form part of the original estate layout. These examples are also not intervisible with Cheyne Court, which is within a different setting characterised predominantly by two storey dwellings, with only occasional taller buildings. The above examples are therefore not directly comparable to the appeal proposal and its specific context.

10. The appeal proposal would cause significant harm to the character and appearance of the area and would therefore conflict with Policy 15 of the Adur Local Plan (2017), insofar as it requires development to respect and enhance the prevailing character of the area in terms of context, massing, height and scale. Conflict also arises with the National Planning Policy Framework (revised 2023), insofar as it seeks to ensure developments are visually attractive and sympathetic to the surrounding built environment.

Living conditions

11. The submission includes a Daylight & Sunlight Assessment (DSA). This is based on the tests and guidance in the Building Research Establishment (BRE) 2011 publication 'Site Layout Planning for Daylight and Sunlight: a guide to good practice'. The calculations in the DSA are not disputed by the Council and the DSA also indicates that the impacts on neighbouring residential properties would be within the accepted tolerances set out by the BRE guidance.

12. The second reason for refusal nonetheless cites harm to neighbouring residences in respect of loss of light, and also cites harm in respect of increased overlooking and overbearing impact. Although the properties affected are not specified in the decision notice, the officer report refers to impacts on: Nos. 27 and 31 Rectory Road (either side of the appeal site); 10-11 Querneby Close (to the rear of the appeal site), and; 20 Rectory Road and 1 Gorringe Close (opposite the appeal site on the other side of Rectory Road).

13. A degree of overshadowing caused by a development does not automatically render it contrary to planning policy. Conversely, compliance with BRE guidance does not always equate to compliance with policy. The most relevant policy is Policy 15 of the Adur Local Plan, which requires development to avoid an *unacceptable* impact on adjacent dwellings. The Council also refers to its own Supplementary Planning Guidance (SPG): Development Management Standard No.1 Space Around New Dwellings and Flats.

14. The DSA does not assess the impact on No. 27 Rectory Road, as there are no windows facing the appeal proposal. The Officer Report refers to potential overshadowing of its rear garden. As the rear elevation of No. 27 is broadly in line with that of the appeal building and is south-facing, the proposed increased building height would not to my mind lead to adverse overshadowing upon its rear garden.

15. No. 31 Rectory Road is set back from Cheyne Court, but contains ground and first floor side elevation windows that would be affected by the appeal proposal. However, the DSA indicates that the existing building of Cheyne Court and the fencing along the side boundary of No. 31 already impacts the level of light received. I observed that the ground floor side window is mainly below this fence at close proximity, and that the orientation between the buildings already has an impact on the overall light received to this neighbour. This existing layout, including side habitable windows facing No. 31, also somewhat restricts the outlook and privacy of No. 31. The appeal proposal would therefore not result in an adverse additional impact upon the living conditions of No. 31.

16. Nos. 20 Rectory Road and 1 Gorringe Close are on the opposite site of Cheyne Court, on the other side of Rectory Road. In my view, they are both at sufficient distance from Cheyne Court to avoid an adverse additional impact upon these neighbours in terms of daylight/sunlight and outlook. The established layout of their elevations and habitable windows facing the highway would also avoid a significant additional impact in terms of privacy.

17. The rear elevation separation distances between Nos. 10-11 Querneby Close and Cheyne Court are already significantly below the minimum 28m recommended in the SPG for between a three-storey building a two-storey building. I observed this layout to be already somewhat constrained in terms of

outlook and privacy. I noted that No. 10 is extended at ground floor level towards the appeal proposal. This neighbour, along with the adjoining dwelling of No. 11, are sited at slightly lower ground to Cheyne Court. In my judgement, the proposed additional floor of accommodation directly above the existing building would therefore not lead to an unacceptable additional impact upon these neighbours in this regard. The rear elevations of these neighbours are north-facing, meaning that the level of sunlight they receive is also already constrained and would not be further impacted by the appeal proposal.

18. 42 and 44 St Julian's Lane also lie beyond the rear boundary of the appeal site, and the Officer Report refers to potential obtrusive views if the existing trees between their rear elevations were to be reduced. One of the occupiers of No. 44 has also commented that these trees may have to be significantly reduced or removed. However, they are subject to statutory control on account of their location in the Kingston Buci Conservation Area (the CA) - meaning that any proposed works would be for the Council to determine. I have not been provided with any evidence of any Council consent for such works. In any event, these neighbours contain deep rear gardens and the significant separation distances between the buildings would be sufficient to avoid adverse additional impact in terms of privacy or outlook.

19. I am satisfied that the proposal would not adversely impact the living conditions of other surrounding neighbours, due to the building orientations and the separation distances.

20. The appeal proposal would therefore not adversely harm the living conditions of neighbouring properties. In this respect, the proposal would accord with Policy 15 of the Adur Local Plan which requires, amongst other things, development to not have an unacceptable impact on adjacent dwellings in terms of privacy, daylight/sunlight and outlook.

Other Matters

21. Part of the rear of the appeal site abuts the CA. The CA boundary here forms the existing rear boundaries of Nos 42 and 44 St Julian's Lane. The appeal proposal is therefore within the setting of this CA. The existing mature trees within the CA mean there are only very limited views towards the existing building. Views of the proposal would also be very limited and even without the tree screening, it would still appear within the existing established suburban ridgelines. Had I been minded to allow the appeal, I am satisfied that a suitably worded planning condition could have been imposed to ensure that the existing historic boundary along the appeal site rear boundary could remain protected from the proposed development. I therefore conclude that there would be no harm to the CA.

22. I note the appellant's comments in relation to the limited communications with the Council and its officers during the planning application. However, my decision is based on an assessment of the planning merits of the proposal having regard to the policy, evidence and the site-specific circumstances before me. Therefore, the Council's handling of the planning application process has not had a bearing on my determination of this appeal.

Planning Balance

23. I have found that the appeal proposal would not unacceptably impact the living conditions of neighbouring properties, in compliance with one of the relevant requirements of Policy 15 of the Adur Local Plan. I have however found significant harm to the character and appearance of the area, contrary to the design requirements of Policy 15. The Framework also states that planning decisions should secure well-designed and beautiful buildings and places that are visually attractive as a result of good architecture and sympathetic to local character. As good design is one of the fundamental tenets of the Framework, I conclude that the appeal proposal is contrary to the development plan as a whole.

24. The appeal proposal would be sustainable in terms of its location in an existing built-up area, the provision of new dwellings and the necessary improvements to the existing accommodation of Cheyne Court. The Council cannot demonstrate a five-year supply of deliverable housing sites, with a supply of 3.5 years as set out in its housing land supply document published March 2024. This also outlines a more persistent undersupply of housing within the District across the Local Plan period. I have found no harm to the setting of the CA and none of the other protected designations listed in footnote 7 to the Framework apply to the appeal proposal. In these circumstances, paragraph 11 d) of the Framework is engaged by footnote 8 and states that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

25. Paragraph 60 of the Framework refers to significantly boosting the supply of housing provision. The proposal would make a positive contribution to housing supply within the existing built-up area, with associated benefits during the period of construction and once the dwellings are occupied. However, four additional dwellings would only provide a limited contribution to the overall housing need, and the associated benefits would also be limited. This moderates the weight to be afforded to these benefits, despite the extent and persistence of housing shortfall in the District.

26. Residents and leaseholders of Cheyne Court have commented that the proposal is needed to improve their quality of life, health and wellbeing. The existing building suffers from damp problems and mould and spore growth caused by insufficient external walls and insulation, and will continue to deteriorate. There are also problems relating to thermal conditions and efficiency, and inadequate roofing and guttering. One of the top floor flats has become inhabitable.

27. One of the directors of the current management company is also a resident of Cheyne Court. He has commented that there were shortcomings with the historic management of the building. The current necessary improvement works, which also include fencing to secure the communal open space, are beyond existing financial capabilities. There are insufficient reserve funds and the required service charge increase is unaffordable, nor can properties be sold until the above issues are resolved. The proposal is therefore submitted to fund these works, which would also secure adequate reserves for any further works in the future.

28. Some overall cost figures for the above improvement works have been provided, but I have no evidence before me that itemises or specifically details the various elements of the work required. I also do not have demonstrable

evidence to indicate that the appeal scheme is the only, or least harmful way, of securing these improvements. Whilst I have every sympathy with the current predicament of the Cheyne Court leaseholders and residents, this moderates the weight that can be applied to the benefits that would arise from the proposed works.

29. In the particular circumstances of this case, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. It would not therefore be the sustainable development for which paragraph 11 d) ii of the Framework indicates a presumption in favour.

Conclusion

30. The proposal would conflict with the development plan as a whole and the material considerations before me, including the Framework, do not indicate that a decision should be made otherwise than in accordance with it. Therefore, the appeal is dismissed.

R Cahalane

INSPECTOR